



Office of the Attorney General
State of Texas

DAN MORALES
ATTORNEY GENERAL

October 25, 1994

Ms. Tamara Armstrong
Assistant County Attorney
Travis County
P.O. Box 1748
Austin, Texas 78767

OR94-693

Dear Ms. Armstrong:

You ask whether certain information is subject to required public disclosure under the Texas Open Records Act, Government Code chapter 552. We assigned your request ID# 29184.

The Travis County District Attorney's Office (the "district attorney") has received a request for certain materials relating to an aggravated assault incident involving the requestor's client. Specifically, the requestor seeks "copies of all my client's statements regarding the . . . incident." You have submitted the requested information to us for review and claim that sections 552.103, 552.108, and 552.111 of the Government Code except it from required public disclosure.

Section 552.108 excepts from required public disclosure:

(a) [A] record of a law enforcement agency or prosecutor that deals with the detection, investigation, or prosecution of crime

(b) [A]n internal record or notation of a law enforcement agency or prosecutor that is maintained for internal use in matters relating to law enforcement or prosecution

Gov't Code § 552.108. When applying section 552.108, this office distinguishes between information relating to cases that are still under active investigation and other information. Open Records Decision No. 611 (1992) at 2. In cases that are still under

active investigation, section 552.108 excepts from disclosure all information except that generally found on the first page of the offense report. *See generally Houston Chronicle Publishing Co. v. City of Houston*, 531 S.W.2d 177 (Tex. Civ. App.--Houston [14th Dist.] 1975), *writ ref'd n.r.e. per curiam*, 536 S.W.2d 559 (Tex. 1976); Open Records Decision No. 127 (1976). Otherwise, when the "law enforcement" exception is claimed, the agency claiming it must reasonably explain, if the information does not supply the explanation on its face, how its release would unduly interfere with law enforcement. Open Records Decision No. 434 (1986) at 3 (citing *Ex parte Pruitt*, 551 S.W.2d 706 (Tex. 1977)). Whether information falls within the section 552.108 exception must be determined on a case-by-case basis. *Id.* at 2.

You advise us that the requested information relates to a pending law enforcement investigation. Accordingly, we conclude that, except for first-page offense report information, the district attorney may withhold the requested information under section 552.108 of the Government Code. As we resolve this matter under section 552.108, we need not address the applicability of sections 552.103 and 552.111 at this time.

Because case law and prior published open records decisions resolve your request, we are resolving this matter with this informal letter ruling rather than with a published open records decision. If you have questions about this ruling, please contact our office.

Yours very truly,



Margaret A. Roll
Assistant Attorney General
Open Government Section

MAR/GCK/rho

Ref.: ID# 29184

Enclosures: Submitted documents

cc: Ms. Sheri Schultz
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(w/o enclosures)